

Fallible Authority¹

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Abstract

Old Catholic theologians have often underlined the relationship between papal supremacy and infallibility and the priority of the former: The pope has full, supreme, and universal power over the whole Church, therefore he *must* be obeyed – at the same time, he *may* be obeyed, because he will not mislead the Church due to his infallibility. The article analyses this relationship, applying differentiations on two axes: On the one hand, Bocheński's typology of epistemic and deontic authority, on the other hand, the notion of personal, formal and constitutional authority. The fact that the infallibility dogma of Vatican I considers papal authority at the same time as epistemic and constitutional, is identified as a major weakness of the dogma. The article will then approach the question how church leaders should practise their *deontic* authority in a context where their (and everybody else's) *epistemic* authority is considered fallible.

Keywords

Authority, Infallibility, Vatican I, Old Catholic Church

Authority, the way it is understood in this article, is a quality of a person or body, who may be called the bearer of authority, which leads other persons or bodies to accept the said bearer's statements and/or follow his/her instructions. These latter persons or bodies might be called followers of authority. The source of this quality, the difference between accepting statements on the one hand and following instructions on the other, as well as the question of acceptance or non-acceptance of claimed authority, will be discussed in this paper.

Accepting authority and following its instructions implies trust that the authority does not err, or, in a weaker form, that the bearer of authority is less likely to be wrong than the

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follower. However, neither claiming nor accepting authority guarantees that the bearer of authority is indeed right. This latter describes the notion of fallible authority: Those following the bearer of authority trust him, but still, the bearer of authority might prove wrong on the long run. What does such a notion of fallible authority mean in the context of Churches and in questions of faith? Or should theology, when considering the role of authoritative teaching in the Church, insist on infallibility in its ecclesial teaching practice? This paper will refute the notion of infallible teaching authorities by discerning different types of authority and applying this differentiation to the analysis of infallibility.

Infallible Authority

Thus, although my goal is to support the notion of fallible authority, my starting point is infallible authority – as it is defined in the dogmatic constitution *Pastor aeternus* from the council Vatican I.² As an Old Catholic theologian, I love to start with Vatican I, not because I like its definitions, on the contrary; but because the rejection of this dogmatic constitution is the historical starting point of Old Catholic self-understanding and self-legitimation.³

In the constitution *Pastor aeternus*, there are two aspects of papal supremacy: First, the jurisdictional aspect, which gives the pope supreme power over the whole Church.⁴ Secondly,

² First Vatican Council, *Pastor aeternus*, in Norman P. Tanner, G. Alberigo (Eds.), *Decrees of the ecumenical councils* (London: Sheed & Ward, 1990), pp. 811–816.

³ The early years of the Old Catholic movement and its self-legitimation as a Church is described by Johann Friedrich von Schulte. In his early standard work, he also publishes a number of important official documents that played a major role in the history of early Old Catholicism, including the protest declarations against the *Pastor aeternus*. Johann Friedrich von Schulte, *Der Altkatholizismus. Geschichte seiner Entwicklung, inneren Gestaltung und rechtlichen Stellung in Deutschland: aus den Akten und anderen authentischen Quellen dargestellt* (Aalen: Scientia Verl., 1965).

⁴ ‘Wherefore we teach and declare that, by divine ordinance, the Roman Church possesses a pre-eminence of ordinary power over every other Church, and that this jurisdictional power of the Roman Pontiff is both

the epistemic aspect, which defines that the pope, whenever he acts as the supreme teacher of the Church in questions of faith or moral, and whenever he clearly expresses his intention to take a final decision and declare a binding teaching for the Church as a whole, he enjoys the infallibility that the Lord had promised to the Church. Such so-called *ex cathedra* teaching would therefore be considered as irreformable and permanent.⁵ On a terminological side note: Infallibility is a feature of teachers, not of teachings.⁶ *Ex cathedra* teachings are not called ‘infallible’ by Vatican I, and rightly so: *Ex cathedra* teachings are truth claims in questions of faith and moral, the notion of ‘infallible teachings’ would imply that they are somehow even more than just true, which does not make sense. *Ex cathedra* definitions are not ‘more true’ than any other teaching. Their truth claim is, however, guaranteed by the highest possible authority which can be neither withdrawn nor changed; thus, such teachings are rated as ‘irreformable’ by Vatican I.

In the pre-conciliar discussion, the debate was dominated by the latter of the two questions presented, which is the epistemic aspect of Papal authority: The notion of infallibility of the pope was by no means new, but fiercely discussed, in the 19th century. It was, on the one

episcopal and immediate. Both clergy and faithful, of whatever rite and dignity, both singly and collectively, are bound to submit to this power by the duty of hierarchical subordination and true obedience, and this not only in matters concerning faith and morals, but also in those which regard the discipline and government of the Church throughout the world.’ *Pastor aeternus* 3, Norman P. Tanner and G. Alberigo, *Decrees of the ecumenical councils* (London: Sheed & Ward, 1990), at pp. 813–814..

⁵ ‘Therefore, faithfully adhering to the tradition received from the beginning of the Christian faith, to the glory of God our saviour, for the exaltation of the Catholic religion and for the salvation of the Christian people, with the approval of the Sacred Council, we teach and define as a divinely revealed dogma that when the Roman Pontiff speaks EX CATHEDRA, that is, when, in the exercise of his office as shepherd and teacher of all Christians, in virtue of his supreme apostolic authority, he defines a doctrine concerning faith or morals to be held by the whole Church, he possesses, by the divine assistance promised to him in blessed Peter, that infallibility which the divine Redeemer willed his Church to enjoy in defining doctrine concerning faith or morals. Therefore, such definitions of the Roman Pontiff are of themselves, and not by the consent of the Church, irreformable.’ *Pastor aeternus* 4, Tanner et al., *Decrees*, at p. 816.

⁶ Otto Hermann Pesch, *Die Geschichte Gottes mit den Menschen. Ekklesiologie, Sakramentenlehre, Eschatologie* (Ostfildern: Matthias-Grünwald-Verl., 2010), at p. 264.

hand, propagated by certain theologians, who underlined the importance of its definition by a council in times of doubt and uncertainty; while, on the other hand, critical voices against such a definition already emerged well before the council, Ignaz von Döllinger's being the most prominent one among them.⁷ However, following the line of argumentation in Vatican I's *Pastor aeternus*, it became soon clear that the two dogmatic definitions, papal supremacy and infallibility, are in a close relationship with one another, where primacy of jurisdiction comes first and infallibility comes second.

The line of argumentation is the following: The pope has universal and immediate jurisdiction over the whole Catholic Church, such is the definition in chapter 3 of the *Pastor aeternus*. Therefore, the pope could lead the whole church astray, and there would be no way to stop him, no higher authority to appeal to. This could then lead Christians into a difficult conflict: They must follow the decisions of the pope, they owe them obedience, even if they consider these decisions as errors, as fundamentally wrong and maybe even heretical. This is where infallibility enters the argumentation: The pope being infallible under certain conditions, as chapter 4 of the *Pastor aeternus* defines, will not lead the Church astray. Whoever doubts an *ex cathedra* teaching by the pope, is wrong in doing so. Thus, the line of argumentation of Vatican I is, in short: you *must* follow the pope, because he holds the universal jurisdiction; and you *can* follow him safely, without fear to be led astray in your faith, because he is infallible. Therefore, Old Catholic theologians soon stressed that universal jurisdiction is the primary obstacle, while infallibility is just the 'seal to the signature', the

⁷ Ignaz von Döllinger, *Der Papst und das Concil. Eine weiter ausgeführte und mit dem Quellenachweis versehene Neubearbeitung der in der Augsburger Allgemeinen Zeitung erschienenen Artikel: Das Concil und die Civiltà*. Unveränd. Nachdr. (Frankfurt: Minerva, 1968). – Ignaz von Döllinger, *Römische Briefe vom Concil*. Unveränd. Nachdr. (Frankfurt: Minerva, 1968).

additional safety net that guarantees that the church will not fall into heresy when every church member does what is his or her duty, which is obeying the pope.⁸

The Old Catholic protest against the *Pastor aeternus* followed different lines of argumentation.⁹ On the one hand, Old Catholics argued that the *Pastor aeternus* was not a legitimate conciliar decision: Infallibility was only put on the agenda of the council at a late stage, critical voices were ignored, there was not enough time for serious exploration of the issue, the rules of procedure discriminated against the minority bishops, and the final vote was not convincing, since a substantial number of bishops, representing about half of the Catholic faithful worldwide, had already left. On the other hand, Old Catholic protesters criticized the scriptural and traditional arguments put forward by the council. Finally, they did not confine themselves to refuting the argumentation of the council, but put forward evidence from both Scripture and tradition that neither the apostle Peter nor his successors were, or should be regarded as, infallible. However, they did not argue epistemologically against the notion of infallibility as such. It was Hans Küng who made such an epistemological line of argumentation the cornerstone of his famous book ‘Unfehlbar?’¹⁰ I will also follow an epistemological approach, but giving special focus to the question of authority.

First Axis of differentiation: Authority by Expertise and by Command

In order to analyse the authoritative claims by Vaticanum I’s *Pastor aeternus*, it is necessary to introduce several differentiations. Clearly, the two aspects of papal supremacy in chapters 3 and 4 of Vatican I’s *Pastor aeternus* represent two different types of authority. The first is the authority of the boss; the second is the authority of the expert. These two types of authority

⁸ Cf. Urs Küry, *Die altkatholische Kirche. Ihre Geschichte, ihre Lehre, ihr Anliegen*. 3rd edn (Frankfurt a. M.: Evangelisches Verlagswerk, 1982), at pp. 55–56.

⁹ Cf. Schulte, *Altkatholizismus*.

¹⁰ Hans Küng, *Unfehlbar? Eine unerledigte Anfrage*. Erw. Neuausgabe (Zürich [etc.]: Piper, 1989).

form the first axis of differentiation. They appear and re-appear in the philosophical discourse about authority under different names. The first one is sometimes called ‘administrative’ authority, or ‘executive’ authority; the second one is known as ‘cognitive’ or ‘epistemic’ authority. Roman Catholic philosopher Joseph Bocheński was the pioneer of this differentiation between two types of authority, he calls them ‘deontic’ and ‘epistemic’.¹¹ Since Swiss Old Catholic theologian Kurt Stalder, when discussing authority in the New Testament, referred to Bocheński and used his terminology,¹² since other Old Catholic theologians including myself followed him and also adapted Bocheński’s terms,¹³ at least some Old Catholic theologians are familiar with this terminology. However, the terms ‘epistemic authority’ and ‘deontic authority’, while they sound rather sophisticated, may not be immediately and intuitively understandable once you hear them. Therefore, I sometimes prefer another terminology introduced by Jean Goodwin: ‘authority by command’ and ‘authority by expertise’.¹⁴ However, it is not the words that matter, but the differentiation in the subject matter.

While Bocheński’s distinction touches the question, why people ascribe authority to someone, it rather aims at the consequences, not the establishing of authority: If you have authority by expertise, you know a lot about the subject matter in question, more than many, if not most, other people. Thus, others may be willing to believe that your cognitive statements within the field of your expertise are true. And this is exactly what the expert would *expect*

¹¹ Joseph M. Bocheński, *Autorität, Freiheit, Glaube. Sozialphilosophische Studien* (München: Philosophia Verlag, 1988).

¹² Kurt Stalder, *Autorität im Neuen Testament*, in Kurt Stalder (Ed.), *Die Wirklichkeit Christi erfahren. Ekklesiologische Untersuchungen und ihre Bedeutung für die Existenz von Kirche heute* (Zürich: Benziger, 1984), pp. 142–188.

¹³ Adrian Suter, ‘Wissenschaftlichkeit der Theologie und Autoritätsanspruch der Kirche’, *Bijdragen* 68 (2007), pp. 198–225. – Adrian Suter, *Vernetzung und Gewichtung christlicher Lehraussagen. Die Vorstellung einer Hierarchie der Wahrheiten und ihre Beziehung zum wissenschaftstheoretischen Selbstverständnis der Theologie* (Wien: Lit, 2011).

¹⁴ Jean Goodwin, ‘Forms of Authority and the Real *Ad Verecundiam*’, *Argumentation* 12 (1998), pp. 267–280.

from others: the acceptance of the truth of his/her statements. Authority by expertise claims truth and expects acceptance of truth claims. – Authority by command is rather different. The authority of the boss does not want to make you believe his truth claims, but obey his commands. Authority by command does not speak in the form of cognitive statements, but in the form of orders. It does not teach, but it instructs. It does not claim truth, but obedience.

There are, of course, possible objections against this differentiation between authority by expertise and by command: First, we want those in command to have expertise. People are not going to follow the instructions of a stupid boss. He who issues orders must know what he is talking about. A boss lacking authority by expertise will soon lose his authority by command, because no one will follow his orders, and the real experts will revolt. Secondly, obedience might seem like a far too submissive notion, which gives the bearer of authority almost absolute power, which is certainly not the way we want to understand authority – not in the churches, not in society, not nowadays. In an Old Catholic or Anglican perspective, there's always an aspect of synodality in every authority, because authority needs to be accepted, to be received.

I will come to these questions later. But for now, let me guide you a bit further in the footsteps of Joseph Bocheński, the above-mentioned pioneer of the differentiation between (as he calls them) epistemic and deontic authority. He describes authority as a relation with three variables: Person A has authority over person B in the field of question C. Thus, authority can massively change due to context, depending on the persons involved and the topic in question. In one room, every person present might be an authority on one topic or another; people differ in their fields of expertise, so whether you are person A (the one bearing authority) or person B (the one accepting authority) depends on C, the topic in question. This is obvious for authority by expertise; it is less obvious, but nevertheless true, for authority by command. Let me give you an example: At the Department for Old Catholic

Theology at the University of Bern, the head of the department is a priest in the clergy of the Old Catholic Church of Switzerland, while the bishop of the Old Catholic Church is a part-time lecturer on practical theology at the Department. Thus, their relation in terms of authority by command depends on the context they meet: In administrative questions in the university context, the head of department has authority over the lecturer; in the church context, the relationship of authority changes, now the bishop assumes authority over the priest.

Thus, we should give up talking about persons being an authority or having authority without any further markers, but make it our habit to express ourselves precisely: person or body A has authority over person or group B on the topic or in the context C. This is, by the way, reflected in the main topic of the Exeter conference where this paper was first presented, ‘the authority of the Churches in a pluralist Europe’: When A is the churches, in plural, and B is Europe, considered as pluralist, then it is immediately clear that this authority can be seen in very different perspectives; and many of the papers presented at the conference dealt with the different C’s – topics or contexts – where the churches may want to claim, or be considered as, authorities.

One further difference between authority by expertise and authority by command is that you can delegate authority by command, which is not true for authority by expertise. Bocheński also reflected on delegated authority, which includes even more variables: Person A bearing authority over group B in the field of C delegates this authority to person D, maybe not over the whole of group B, but only over a subgroup B’, and only on a sub-field C’ – which gives an impression of the complexity of the subject of delegated authority. I will not embark into detail on this subject, let me just mention that certain Roman Catholic ecclesiologies consider the authority of the bishops as delegated authority received by the

bishop from the pope.¹⁵ Other ecclesiologies outside, but also some inside the Roman catholic church, see this differently. – My point here is that delegation of authority only works for authority by command. You will not become an expert through delegation by another expert. You may become an expert through a process called ‘learning’. Other experts (called ‘teachers’) can be extremely helpful during this process – however, these teachers cannot just delegate their expertise to you.

Second Axis: Personal, Formal and Constitutional Authority

However, the distinction between authority by expertise and authority by command is not the only one relevant. Let me distinguish yet another three types of authority, which lie on a different level and therefore build a second axis of differentiation:

Someone can have authority just by his or her personal charisma. People may be willing to believe you (authority by expertise), or follow you (authority by command), because you appear confident, because you show your expertise and they trust it, because you had proved to be reliable earlier, or because you have a dominant personality. I call this kind of authority ‘personal’. Others may want to call it ‘charismatic’ or ‘authority by example’. – However, someone can also have authority because of his or her status, title, office or ministry. You have authority because you were appointed to fulfil a certain duty and you exercise your authority by the virtue of your office. People accept your authority, because you are not just any Tom, Dick or Harry, but because you are bishop, professor, president, chairperson, general secretary, appointed expert, or some such. I call this kind of authority ‘formal’.

¹⁵ Max Seckler, *Die Theologie als kirchliche Wissenschaft - ein römisches Modell*, in, *Im Spannungsfeld von Wissenschaft und Kirche. Theologie als schöpferische Auslegung der Wirklichkeit* (Freiburg: Herder, 1980), pp. 62–84. Cf. also Max Seckler, *Kirchliches Lehramt und theologische Wissenschaft*, in, *Die schiefen Wände des Lehrhauses. Katholizität als Herausforderung* (Freiburg: Herder, 1988), pp. 105–135.

The Gospels describe the authority of Jesus Christ as personal, not as formal authority, e. g. in Mark 1,22: ‘and they were astonished at his teaching, for he taught them as one who had authority, and not as the scribes.’. He is put in contrast to the scribes, who claim their authority from the fact that they are scribes, that they have some sort of office, that it is their duty to interpret the Scriptures, a job they have learnt how to do it. Jesus, on the contrary, does not rely on his education nor on his office, but on his ‘exousia’, which I would translate here as ‘personal authority’. The same is true for the apostles in the missionary context of the early church: Paul could not convince the Corinthians by his nice-sounding title, by the office ascribed to him by the Apostles’ Council, not even by the mission given to him by the risen Christ on the way to Damascus. He could only convince them by the message he proclaimed and the authenticity of his personal appearance. The situation changes, however, once they formed a church in Corinth considering Paul as its founder: Then, the apostle Paul also had formal authority, at least over those who described themselves as ‘belonging to Paul’ (1 Cor 1,12).

The distinction between personal and formal authority is important and well-known, yet it is not complete. There is a third type of authority on the same axis, which can be considered a sub-type of formal authority – I call it ‘constitutional’. What is meant by this?

Although formal authority relies on an office or status, this does not mean that it is always and automatically accepted. However, certain authorities also have the means to push their will through and enforce consequences. They can not only make authoritative statements that people may or may not accept, but also take decisions that have consequences. The authority of a judge may be the most typical example. – Often, a person can assume both the ‘ordinary’ formal authority described above, as well as constitutional authority: A bishop can write a pastoral letter, which speaks with a certain formal authority; but he can also, depending on the structure of the church in question, take decisions, sometimes in co-operation with other

governing bodies, decisions that have consequences. A professor can not only teach with a certain authority (which can be personal, formal or both), he can also mark a student's exam as passed or failed, an authoritative decision which would then have quite significant consequences on the further career of this student. This special kind of authority, which takes valid decisions with consequences, which has the means to enforce them, this kind of authority I call constitutional.

The Relationship between Authority by Command and Authority by Expertise

Chapters 3 and 4 of Vatican I's *Pastor aeternus* represent the two different types of authority that I presented first, following Joseph Bocheński: the primacy of jurisdiction in chapter 3 ascribes supreme deontic authority to the pope, he is the leader and must be obeyed. The infallibility in chapter 4 ascribes supreme epistemic authority to him, he is the teacher and one must believe him. But as we have seen, these two authority claims depend on one another: one must obey because one can believe him. This illustrates the relationship between the two types of authority.

Leaders with authority by command, if they want to be good leaders, must also be experts. Smart people do not want to follow dumb leaders. In particular, you need expertise in the field where you are going to be a leader. Otherwise, you will either be led by your subordinates without you noticing yourself, or cursed by them, or both. However, it does not work the other way round: Authority by expertise does not automatically make you a leader. In our present-day society, there are numerous experts with high epistemic authority in their field of knowledge, but when it comes to instructions what to do, they lack authority by command. Scientists speak about pollution, about the greenhouse effect, about biodiversity that is decreasing, about the dangers of plastic garbage for marine animals, and everybody knows

they are experts, everybody knows they are *right* – however, although they have high authority by expertise, they lack deontic authority that could command the necessary political, economic and technical changes to improve the environmental situation.

If, however, you are a leader, and you have authority by command and hopefully authority by expertise, too, there is a very dangerous temptation: Whenever your epistemic authority is challenged or criticized, you may be tempted to exercise your deontic authority on your critic in order to silence him and to push your opinion through, thus avoiding any debate on possible counter-arguments. The German Roman Catholic theologian Max Seckler once defended the point of view that the Roman Catholic teaching office has all too often given in to this temptation.¹⁶ Critical theologians were disciplined by administrative means in order to silence them, and this proved so effective, that the epistemic authority, the supreme teaching authority from chapter 4 of the *Pastor aeternus*, was hardly ever used. As it is well known, there has only been one formal papal ex-cathedra definition since Vatican I, which was the dogma of the assumption of Mary in 1950.¹⁷

In *Munificentissimus Deus*, Pius XII. presents the definition of the dogma as a response to the growing desire of the Church, both the hierarchy and the faithful. Thus, he understands infallibility as formally articulating a teaching that is already implicitly held by the Church. On the one hand, such an understanding of papal infallibility, rooted in the wider notion of ecclesial infallibility, can foster ecumenical progress when discussing doctrinal differences between denominations. On the other hand, critics of the Marian dogmas may argue that the wide consultation process mentioned in *Munificentissimus Deus* illustrates the failure of the

¹⁶ Seckler, Kirchliches Lehramt. – Seckler, Theologie.

¹⁷ Pope Pius XII., ‘Munificentissimus Deus’, AAS XXXXII (1950), pp. 753–773. English translation: http://w2.vatican.va/content/pius-xii/en/apost_constitutions/documents/hf_p-xii_apc_19501101_munificentissimus-deus.html.

safeguards which should prevent the pope from defining a dubious teaching as a dogma.¹⁸

Either way, we can state that the pope has exercised his supreme epistemic authority only once.¹⁹

There is, however, a line of theological reasoning within the Roman Catholic Church which regards certain papal decisions as irreformable, although they are not *ex cathedra* decisions. The encyclical *Humanae vitae* by Paul VI. on the regulation of birth²⁰ and the ecclesiastical letter *Ordinatio sacerdotalis* by John Paul II.²¹ are both part of the ‘ordinary magisterium’ – yet they are, according to the Congregation for the Doctrine of the Faith, taught infallibly and are thus definitive.²² Both of them are highly controversial within, let alone outside the Roman Catholic Church. The former is of particular interest for our question: *Humanae vitae* explicitly states that Roman Catholic priests, in their moral teaching, owe obedience to the magisterium, not because of its arguments, but because it enjoys ‘a

¹⁸ ‘If such dogmas can be “infallibly” pronounced, then how effective are the safeguards? ... It is very difficult to maintain that these particular Marian dogmas “express the mind of the Church on issues concerning the divine revelation.” If they do actually express the mind of the Church at that particular point in time, so much the worse for the Church... The principle underlying the possibility of promulgating such dogmas makes the whole subject highly suspect.’ Julian W. Charley, *Agreement on Authority. The Anglican-Roman Catholic Statement with Commentary* (Bramcote: Grove Books, 1977), at p. 26.

¹⁹ There is an ongoing debate in Roman Catholic theology as of which papal decisions prior to the definition of infallibility must be considered *ex cathedra* definitions. Obviously, the Apostolic Constitution *Ineffabilis Deus* by Pius IX. from 1854, which defines the dogma of immaculate conception of Mary, is meant such an *ex cathedra* definition. The question whether earlier papal decisions, like the bull *Auctorem fidei* by Pius VI. from 1794, which condemns Jansenist teachings by the Synod of Pistoia, must be considered *ex cathedra* definitions, is discussed controversially.

²⁰ Pope Paul VI., ‘*Humanae vitae*’, AAS LX (1968), pp. 481–503. English translation:

http://w2.vatican.va/content/paul-vi/en/encyclicals/documents/hf_p-vi_enc_25071968_humanae-vitae.html.

²¹ Pope John Paul II., ‘*Ordinatio sacerdotalis*’, AAS LXXXI (1994), pp. 545–548.

http://w2.vatican.va/content/john-paul-ii/en/apost_letters/1994/documents/hf_jp-ii_apl_22051994_ordinatio-sacerdotalis.html.

²² Congregatio pro doctrina fidei, ‘Responsum ad dubium circa doctrinam in Epist. Ap. «*Ordinatio Sacerdotalis*» traditam.’, AAS LXXXVII (1995), p. 1114. – Another instance of papal decisions that are considered definitive and irreformable are canonizations. They should, however, not be regarded as matters concerning faith and morals.

special light of the Holy Spirit in teaching the truth.’²³ The notion of ‘obedience’ is crucial, as it refers to deontic authority: One reason why there was only one *ex cathedra* definition since 1870 is the highly efficient use of administrative measurements, i. e. the exercise of authority by command. Seckler even underlines that the popes Pius XII. and Paul VI. understood the teaching office of theologians as a delegated teaching office:²⁴ Theologians are, in their teaching, understood as empowered by the supreme teaching authority of the pope. As soon as the supreme teaching authority understands this delegation in the way that it includes not only the capacity of teaching, but also its content, we have authority by command silencing the criticism of authority by expertise – which is, according to Seckler, the case in the self-understanding of the papal teaching office.

Old Catholics have seen, throughout their history, their difference with the Roman Catholic Church as a primarily ecclesiological one. Papal supremacy of jurisdiction, with a lack of synodality, a lack of autonomous authority of the local churches, this was (and widely is) seen as the primary difference of Old Catholic self-understanding towards Roman Catholicism, and as a primary obstacle to full communion among these churches. Infallibility was considered of secondary importance – probably due to the fact, among other reasons, that it has only been executed once. The document ‘The Church and Ecclesial Communion’ by the International Roman Catholic – Old Catholic Dialogue Commission²⁵ speaks extensively about primacy, jurisdiction and the role of the pope as a leader; it hardly speaks on his role as a teacher and does not mention infallibility at all. This led to a critical remark in a statement by the Swiss Old Catholic clergy conference to this document, and the dialogue commission

²³ *Humanae vitae*, at § 28.

²⁴ Cf. Seckler, *Kirchliches Lehramt*.

²⁵ *Kirche und Kirchengemeinschaft. Bericht der Internationalen Römisch-Katholisch-Alt-katholischen Dialogkommission (IRAD)* (Paderborn: Bonifatius, 2009).

has since worked on a second document that shall include a reflection on the epistemic side of papal authority. I haven't seen this document yet, but I am eager to see it.²⁶

Authority by expertise made constitutional

Still, the question of epistemic authority of the teaching office cannot be just included into the question of deontic authority of the bishop of Rome. And with the distinction of several types of authority presented here, we are now able to analyse more precisely where the problem lies, and how other churches like the Old Catholics could describe their alternative point of view when it comes to authority.

The problem with epistemic authority in Vatican I's *Pastor aeternus* is that *it makes the authority by expertise a constitutional one*. It defines that once a doctrine is taught with this *ex cathedra* authority, its truth must be accepted in the same way that the accused has to accept the authority of the judge: reluctantly, against his own conviction, but still as a valid judgement. This is problematic for several reasons.

First, one does not gain expertise by being appointed to an office. The bearer of an office gains deontic authority, but not expertise. If the electoral body is clever, it will appoint a candidate to the office who already has a lot of expertise. However, this expertise will not increase just by being appointed to an office. As mentioned before, expertise is gained

²⁶ This new document will also include a section about the Marian dogmas of 1854 and 1950. This section was drafted by a Swiss dialogue commission, of which I am a member. The main problem of Roman Catholic – Old Catholic dialogue on Mariology is that the teaching of the immaculate conception and the assumption are formally defined dogmas by the Roman Catholic Church, while the Old Catholics have formally rejected the same teachings. Nowadays, ecumenists within both churches consider these dogmas rather peripheral, not belonging to the essentials of faith, because they rank low in a hierarchy of truths. Thus, the Swiss commission took the following approach: First, the Old Catholic members presented an interpretation of the theological issues that are covered by the two dogmas; secondly, the Roman Catholic members reflected upon this interpretation and stated that, in their opinion, it should not come under the anathema; thirdly, the whole commission stated that under these circumstances, the Marian dogmas should no longer be considered obstacles to unity. – On the notion of a hierarchy of truths cf. Suter, Vernetzung.

through a process called learning, and there is no shortcut to this process: Not through delegation, not through appointment to an office, not through ordination, not through enthronement to the See of Rome.

Second reason why an authority by expertise that is considered constitutional is problematic: It contradicts every single philosophical truth theory known to humankind. There is no philosophical truth theory where a single authority can make a statement true by decision. This is obvious for a consensus theory of truth, where truth emerges in the common agreement in a free discourse, and it is equally obvious in a correspondence theory of truth, where truth is seen as the correspondence of a statement with an outside fact. And if one adheres to a coherence theory of truth, then a statement will stay incoherent with one's other convictions about what is true even if an authority states that it doesn't, and clearly the assurance of an authority that something is true does not count as evidence in an evidence theory of truth.²⁷

Thirdly, the bearer of an epistemic authority made constitutional, is displaced from the discursive exploration of controversial questions. Not only can he rise above this discourse by will, he will also be no longer considered part of the discourse by others. When Benedict XVI. resigned as pope, he was asked what he would do when he was in retirement. His answer was, that he would pray, think and maybe write. Of course he had written a lot already during his pontificate, some of his writings he understood as papal announcements, others, like his Regensburg speech²⁸ and his Jesus books,²⁹ he understood as part of an academic discourse.

²⁷ Karen Gloy, *Wahrheitstheorien. Eine Einführung* (Tübingen: A. Francke, 2004).

²⁸ Gesine Schwan, Adel Theodor Khoury and Karl Lehmann, *Benedikt XVI., Glaube und Vernunft. Die Regensburger Vorlesung* (Freiburg i. Br.: Herder, 2006).

²⁹ Benedikt XVI., *Jesus von Nazareth. Band 1: Von der Taufe im Jordan bis zur Verklärung* (Freiburg i. Br.: Herder, 2007). – Benedikt XVI., *Jesus von Nazareth. Band 2: Vom Einzug in Jerusalem bis zur Auferstehung* (Freiburg i. Br.: Herder, 2011). – Benedikt XVI., *Jesus von Nazareth. Prolog - Die Kindheitsgeschichten* (Freiburg i. Br.: Herder, 2012).

However, being the pope and bearing the highest epistemic authority on questions of faith and moral, he simply was not seen as a participant in an academic discourse on eye level – this must be seen as one of the reasons why his Regensburg speech caused so much irritation. So he probably wanted to state that as a retired pope, he could write without the burden of papal authority, but on eye level with other writers on the same topics.

Fallible Authority in the Church and by the Church

However, as an Old Catholic I cannot just look at the Roman Catholic Church and say thanks God we are different. Therefore, by rejecting infallible authority, we must provide a counter-concept of fallible authority. So how should we understand authority, and how should it be exercised, when we consider it fallible? Let me propose a concept of fallible authority in ten theses, or ‘ten commandments to bearers of authority’:

1. *Authority is something you claim, or it is ascribed to you; it is not something you have or are.* Admittedly, I have used the terms ‘someone has authority’ and ‘someone is an authority’ by myself. However, speaking more precisely, we should say: Authority is something you claim, a claim which others may or may not acknowledge; or it is something ascribed to you, and you may or may not adopt it.
2. *Authority needs acceptance, but works at the same time as a criterion of acceptance. Authority is, however, not a criterion of truth.* If you are an expert, people may be willing to accept your statements without further proof, without putting them to the test. This acceptance, however, does not make the statement true. In order to epistemologically support your truth claims, you need proof, evidence, good arguments – although some people may be willing to accept your truth claim without all these, just because they trust your expertise.

3. *Fallible means that your statements are truth claims, not more, not less.* So good news: Fallible does not mean that you are wrong. Truth claims may be true, they may be disputed, you might or might not be corrected on the long run. Just as an infallible authority does not make a true statement ‘more true’, a fallible authority does not make it ‘less true’.
4. *While your office does not give you higher expertise, it gives you higher responsibility.* You need a certain expertise to fulfil your task in the office; however, there probably are people with more expertise than you, some of them have no office at all, some might be your subordinates. People in office with high responsibility have their experts to support them. Politicians have expert commissions, economic leaders have advisory boards, and bishops have theologians. While these supporting experts may have more expertise, the holder of an authoritative office will bear a higher responsibility. The reason is clear: The office brings with it some authority by command, in many cases constitutional authority with immediate consequences.
5. *Fallibility implies that others are fallible, too.* In the field of epistemic authority, there often are several authorities defending rather different and at times contradicting truth claims. Therefore, if you are in a position of authority, choosing the right advisor is crucial. However, even the right advisor is fallible, so you cannot delegate your own responsibility to a better expert, hoping this can guarantee that you do nothing wrong.
6. *Never use your authority by command in order to silence your opponent. Instead, argue.* In the course of such an argument, it is very natural to refer to authority *by expertise*, either of a well-known expert, or your own.³⁰ However, if you use your

³⁰ We all know namedropping arguments like ‘as expert so-and-so has written in the second volume of his standard work’ or self-adulating arguments like ‘as I have already mentioned in my lecture at this-or-that famous institution.’ They refer to authority by expertise, they are sometimes relevant, sometimes a sign that you are faithful to your sources, sometimes a little ridiculous, but very normal and nothing to worry about. It is the reference to authority *by command* that is problematic in a discourse.

authority *by command* in order to fight your opponent, if you sabotage his career in order to make his arguments less heard, if you use your influence to prevent him from publishing his ideas in renowned journals, this would be an abuse of deontic authority.

7. *Even the rather uneducated Christians have a sense of truth in questions of faith.*

Some call this sense of truth ‘authority’, I don’t. I call it ‘primary knowledge’ – which is not the same as ‘basic knowledge’ or ‘elementary knowledge’. Rather, primary knowledge is first-hand knowledge from one’s own experience. The primary knowledge of all Christians about the Christian faith is like the knowledge of a native speaker about his or her mother tongue: They may not be able to explain this or that grammar rule, but they speak their language fluently. They even recognise mistakes, without being able to tell what rule is being violated. It is the North American Lutheran theologian George Lindbeck who strongly underlined the theological competence of Christian lay people in the sense of native speakers of the Christian language.³¹ Theologians are, according to Lindbeck, like grammarians who analyse the underlying principles of the Christian language. This thought shows a new aspect to the notion of the *sensus fidelium*, which must not be seen as a consensus on second-order statements of Christian teaching, but on first-hand knowledge of Christian faith. Thus, the *sensus fidelium* is the concordant practice of faith by competent ‘native speaking’ believers.³²

³¹ George A. Lindbeck, *The Nature of Doctrine. Religion and Theology in a Postliberal Age*. 25th anniversary ed. with a new introduction by Bruce D. Marshall and a new afterword by the author (Louisville: Westminster John Knox Press, 2009). On my own interpretation of Lindbeck, cf. Adrian Suter, ‘Ecumenical and Interreligious Dialogue: Lindbeck’s Cultural-Linguistic Model’, *IKZ-bios* 1 (2014), pp. 41–64.

³² ‘A competent speaker of a language is, according to Lindbeck, one who can easily communicate within the social group who speaks the language in question. This is, of course, a recursive definition: competent speakers are those who are considered to be competent speakers by other competent speakers. Yet, it has an empirical foundation: as soon as one finds a socio-cultural group sharing the same language, defining itself by referring to this language, one can also identify competent speakers of this language.’ Suter, *Ecumenical*, at pp. 57–58. Cf. Lindbeck, *Nature*, at pp. 99–100.

8. *If you abstain from exercising authority, you may actually enhance it.* If you claim epistemic authority, expertise is crucial. Fallible authority means that your expertise is still imperfect, and you can and should expand it through learning. This can not only be done in interaction with an expert with higher expertise than yours acting as your teacher, but also in interaction with someone whose expertise does not match yours, but who can stimulate processes of learning. A grammarian has to listen to native speakers in order to learn the grammar of a language, even if those native speakers cannot explain the grammar to him. Similarly, an expert in the field of Christian faith must listen to native Christian speakers, even if they cannot explain their theological concepts to him. Nevertheless, the expert may recognise these concepts, analyse them and learn something by exploring them. If the expert jumps to teaching too quickly, this may undermine his or her own learning processes.
9. Having said that, one must underline: *Even a fallible authority is still an authority. It should not be denied, but exercised in the most responsible way.* The awareness that one's own authority is fallible should not lead to its denial, disdain or neglect.³³ On the contrary, an expert *should* teach, and a superior *should* instruct. They should, however, exercise their authority responsibly, which means they should teach and instruct in ways that open doors, not close them. Fallible epistemic authority will give the debate a certain direction, but should not close it. Its truth claims may become obsolete by the progress of knowledge. Thus, truth claims by a fallible authority are not irreformable – people exercising authority should be aware of this.

³³ When I became a parish priest 18 years ago, at the first meeting of the parish council, we were discussing some question, I cannot remember what it was. What I can remember is that, at a certain stage of the discussion, the president asked 'well, what does our parish priest think?' Everybody was looking in my direction, I said something, and they all agreed. I had become an authority over night. And even if I was very well aware of my fallibility and my lack of experience as a young priest, I still had to deal with the fact that I was an authority.

10. *Fallible deontic authority may close certain opportunities for the person who follows this authority, but it should always open new ones.* In the case of deontic authority, stepping back from earlier decisions may not be enough. Authoritative instructions and commands can prove inadequate on the long run, but they may have already had significant consequences that will not disappear when the decision is taken back. Therefore, fallible authority must be aware of the consequences of its decisions, and whenever it closes a door, it should open a new one.

Admittedly, this article as a whole and these ten theses on fallible authority are aimed at the exercise of authority in the church *ad intram*. However, the differentiations proposed in this article may also enlighten the analysis of the situation of the churches in today's pluralist Europe: In a secularised society, churches lack formal authority *ad extram*. They cannot rely on their status or office. They are not in a position of command, neither is their expertise unchallenged. The churches *ad extram* are like Paul when he first arrived in Corinth, not like when he wrote his letters to the church he founded there. In the fields of politics, social sciences, economics etc., the churches' expertise is limited. Of course, churches are called to gain or enhance their expertise in these fields, but they will never be considered better experts than the secular ones. So where lies their authority, where could they claim authority that has a chance of being accepted, or where is this pluralist Europe likely to ascribe authority to the churches? – The key point, in my opinion, is to discover the relevance of the expertise churches have for the situation of a pluralist Europe: They must find out, and make transparent, in how far their expertise in questions of faith, of the role of sacred writings and normative traditions, of belonging and identity, of inculturation and dialogue, are relevant for Europe today.

To conclude, the concept of fallible authority may be nothing new to some readers. This is because many of them, being in a position of authority themselves, speak the language of

fallible authority like their mother tongue. What I tried to do in this article is analyse this language of fallible authority like a grammarian. The grammarian may not be able to teach new language skills, because many readers already have them, but he might be able to show that the language follows certain rules and that these rules make sense.